

DOCKET NO. 91-475-C - ORDER NO. 92-17 ✓

Application of International ) ORDER  
Telecommunications Exchange Corporation ) DENYING  
for a Certificate of Public Convenience ) REHEARING  
and Necessity. ) AND/OR  
 ) RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Petition for Rehearing and/or Reconsideration filed by Southern Bell Telephone and Telegraph Company (Southern Bell) on January 2, 1992. For the reasons hereinafter stated, this Petition must be denied.

Southern Bell first alleges error in denying various Southern Bell Motions due to the Commission's alleged failure to require information under S.C. CODE ANN. Sections 58-9-520, 58-9-570, and 58-9-350 (1976, as amended). Our original Order, Order No. 91-1080, issued on December 4, 1991, explains in detail why the Commission believes that these statutes do not apply to a case such as this one, where a reseller is applying for a Certificate of Public Convenience and Necessity. Therefore, the Commission reaffirms herein its holding on these statutes as stated in Order No. 91-1080.

Southern Bell also alleges that PSC Regulation 103-834 (1976, as amended), applies and requires that a reseller applying for a

Certificate of Public Convenience and Necessity furnish certain information to the Commission, such as a balance sheet, a profit and loss statement, accounting and pro forma adjustments, computation of proposed increase, effect of proposed increase, and rates of return on rate base and on common equity. The Commission believes that R.103-834 does not apply in the case of a reseller applying for a Certificate of Public Convenience and Necessity, even though the Applicant filed both a balance sheet and an income statement with its Application. Although the regulation does note that it shall apply for "establishment or adjustment of rates and charges," the Commission holds that this regulation does not apply to the present case. In cases such as the one at bar, resellers submit tariffs which are competitive with American Telephone and Telegraph's (AT&T's) maximum rates. Therefore, many of the various factors contained in the regulation simply do not apply to this type of rate establishment situation. For this reason, Southern Bell's objection must fail.

Southern Bell also alleges that Order No. 91-1080 contains insufficient findings and conclusions. Southern Bell states that "The Order contains four single-sentence findings of fact which lead the Commission to twelve conclusions of law." Southern Bell also states that the number of findings and their "obvious simplicity" are insufficient to support the conclusions of law which follow. To our knowledge, there is no rule or regulation which dictates how many findings of fact or conclusions of law must be used in a particular order. Further, it would seem to us that

Southern Bell would welcome simplicity in today's complex legal world. In any event, we hold that the findings and conclusions are sufficient to comply with S.C. CODE ANN. §1-23-350 (1976, as amended).

We believe that Order No. 91-1080 comports with all constitutional and statutory provisions, was made upon lawful procedure, was correct in view of the reliable, probative, and substantial evidence on the whole record, and was neither arbitrary, capricious, nor characterized by abuse of discretion or clearly unwarranted exercise of discretion.

IT IS THEREFORE ORDERED:

1. That the Petition for Rehearing and/or Reconsideration filed by Southern Bell is denied.
2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)